# MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION OPEN MEETING MINUTES APRIL 27, 2021

This meeting was held via internet and telephone conference call.

## Trustees Participating:

William Allen, Chair

Taylor Huffman, Vice Chair

Jerome Klasmeier, representing Comptroller Peter Franchot

Joanna Kille, representing Treasurer Nancy Kopp

Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland

Department of Planning

Julie Oberg, representing Secretary Joseph Bartenfelder, Maryland Department

of Agriculture

Catherine Cosgrove

Cricket Goodall

Elizabeth Hill

Robin Kable

Joseph Wood

J. Bruce Yerkes

#### **Trustees Absent:**

#### Others Participating:

Michelle Cable, MALPF Executive Director

Diane Chasse, MALPF Administrator

Chana Turner, MALPF Administrator

Sarel Cousins, MALPF Administrator

Amanda Massoni, MALPF Fiscal Specialist

Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator

Patrick Martyn, Assistant Attorney General, Department of General Services

Renee Dyson, Assistant Attorney General, Department of General Services

Mike Steadman, Jr., Assistant Attorney General, Maryland Department of Agriculture

Megan Benjamin, Baltimore County Program Administrator

Beth Beales, Caroline County Program Administrator

Bill Amoss, Harford County Program Administrator J.P. Smith, Carroll County Program Administrator

Jackie Brathuhn, Carroll County Staff

Donna Landis-Smith, Queen Anne's County Program Administrator

Devyn King, Cecil County Program Administrator

Chris Boggs, Washington County Program Administrator

Dave Kelleher, DGS Appraiser

John Byler, Amish Steering Committee

Stacey Kubofcik, MARBIDCO staff

Julie Enger, DGS Appraiser

Fatima Hasan, MNCPPC

Mr. Allen, Chair, called the meeting to order at 9:02 a.m. via internet and telephone conference call. Ms. Cable stated the names of the participants on the conference call, for the record, and asked anyone that was not named to identify themselves.

#### I. APPROVAL OF MINUTES

A. Approval of Open Minutes from March 23, 2021.

Motion #1:

To approve minutes from March 23, 2021.

Motion:

Kille

Second:

Hill

Status:

Approved

## II. ADDITION / DELETION OF AGENDA ITEMS

Ms. Cable emailed additional item VI. B. on Friday, April 23rd. Ms. Cable stated that Item VI.C. was being withdrawn, but after discussion from Board members, the item remained on the agenda.

#### III. ANNOUNCEMENTS

Ms. Cable thanked all the attendees for participating in the MALPF teleconference Board meeting. Ms. Cable asked all participants to keep themselves muted, and when unmuted, to clearly state their names before asking a question, or making a motion, etc. Ms. Cable also reminded the Board members that when motions were made, Board members only needed to state their names if they were voting in opposition to the motion, rather than saying "aye" to vote in favor of a motion.

#### IV. EASEMENT AMENDMENTS

#### A. HARFORD COUNTY

1. 12-88-01

Johnson, Lawrence and Valerie

~126 acres

#### Request -Harford County:

Request approval for a tenant house.

#### Recommendation

Staff recommends approval of a tenant house to be occupied by their son, as tenant, subject to the owner and tenant signing to acknowledge that if the tenant acquires an ownership interest in the farm he will no longer be allowed to live in the tenant house.

Ms. Chasse introduced the item. Mr. Amoss was available to address the Board.

Motion #2:

To approve the request for a tenant house, as presented, incorporating staff recommendations.

Motion:

Yerkes

Second:

Kille

Status:

Approved

## B. HOWARD COUNTY

13-79-03 A & B - Idiot's Delight, Inc. and Corp. No. 2

~195.55 acres

#### Request - Howard County:

1. Request approval for an additional 12.683 acres to a previously approved Stream Restoration Overlay Easement, of ~52.63 acres (a 24.10 percent increase), for a new total of 65.313 acres.

## Recommendation:

 It is the opinion of MALPF Staff that the request addresses the required criteria under the Water Resource Overlays Easement Policy and, accordingly, staff recommends approval.

Ms. Cousins introduced the item. Mr. Klasmeier asked why MALPF staff brought this request to the Board, Ms. Cable explained that the recommended size limit of a stream overlay easement in our policy is 10 acres, or 10% of the total easement property, whichever is less. This size of this overlay project is increasing from 25% to 33% of the easement property, therefore MALPF staff wanted bring this to the Board for consideration.

Motion #3:

To approve the request to increase the Stream Restoration Overlay Easement to 65.313 acres, as presented, incorporating staff recommendations.

Motion:

Cosgrove

Second:

Herr-Cornwell

Status:

Approved

#### C. CARROLL COUNTY

06-05-15

King, Henry and Katie

~155.154 acres

#### Request - Carroll County:

Request approval for the use of an Amish schoolhouse and associated parking and toilet facilities within one acre of a pre-existing dwelling.

#### Recommendation:

Staff is not making a recommendation with respect to this request due to the fact that the Carroll County Agricultural Advisory Board did not provide a recommendation. If the Foundation Board approves it, staff recommends the following conditions:

- 1. Receipt of approval from the County Health Department and any other County approvals which may be required for operation of the Amish schoolhouse, and landowner's agreement to comply with all applicable County requirements, if any;
- 2. Creation of a non-subdividable building envelope be memorialized through the Corrective easement which will be executed in connection with the agricultural subdivision approved in August, 2020 (see below); and
- 3. The school house to be located within the building envelope may never be converted to any other non-agricultural commercial use or for use as a dwelling structure.

Ms. Chasse introduced the item. Mr. Smith, Administrator from Carroll County and Mr. Byler (member of an Amish Steering Committee, but not specifically involved with this King property) were available to address the Board.

Mr. Byler explained that Amish schoolhouse toilets used tanks that would be pumped out and hand sanitizer. He did not address why the landowner had not applied to the Health Department. He was asked if there was an urgency to building the schoolhouse. He did not indicate that there was one. He did say that the location off the road was due to safety concerns for the children and that the location of this property is key because most children walk to school. The school will serve 10-14 families.

Mr. Smith explained the county board was concerned about this being a commercial use as a school, and not a farm use, which is why the members didn't recommend approval (even though Mr. Smith shared that MALPF approved a previous schoolhouse in Cecil County).

Ms. Herr-Cornwell asked about the shape of the building envelope. Ms. Chasse explained that the reason for the shape is to avoid the dwelling's septic system. She also advised that this is not the first time a building envelope was not square.

Another Board member suggested that MALPF might want to have more discussion in general about the Amish community moving into Maryland, and any possible needs that community may have. MALPF may want to set up a committee at some point, regarding possible use requests from the Amish who buy MALPF easements that involve uses specific or unique to the Amish community.

When asked to share any lessons learned from the school previously approved, Devyn King, Cecil County Administrator, said that she had not heard of any issues with the Amish schoolhouse that was approved and built in her county.

The Board asked to be kept updated on progress of Health Department review/decision, and if approved by Health Dept., update on the construction of schoolhouse.

Motion #4:

To approve the request to construct an Amish schoolhouse and associated parking and toilet facilities within a 1-acre envelope associated with the pre-existing dwelling. The approval incorporates all staff recommendations, in addition to the owner providing regular updates on the status of the Health Department permit process, and ultimately construction process, if all permits

are obtained.

Motion:

Klasmeier

Second:

Huffman

Status:

Approved

#### **NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:** ٧.

N/A

#### PROGRAM POLICY VI.

Pre-Existing Dwelling Releases - Review and Approval Authority A.

#### Recommendation:

Staff requests and recommends affirming the delegation of authority to MALPF Staff to review and approve Pre-Existing Dwelling release requests.

Ms. Cable presented the item.

Motion #5:

To approve the request to re-affirm the delegation of authority to MALPF Staff to review and approve Pre-Existing Dwelling release requests.

Motion:

Herr-Cornwell

Second:

Klasmeier

Status:

Approved

FY 2022 Easement Acquisition Cycle Submission В.

Ms. Cable provided the final funding approved during the Legislative Session, which includes the first portion of the FY16 POS payback. Total amount of funds authorized for FY22 (State and County combined) is \$49,052,331.

Staff recommended same submission structure as previous years:

- A. Maximum number applications to be submitted to DGS for appraising: <u>12</u>.
- B. Counties with a high volume of applicants allowed to submit up to 17 applications by the July 1st deadline, provided that at least 5 of the 17 applications are still eligible to potentially receive a Round 2 offer in the FY 2021 cycle.
- C. Counties submitting more than 12 applications must submit a preliminary ranking of all the applicants, up to the full 17, by July 1st, and provide a final ranking of the top 12 applicants by July 31st. This gives the Counties through the July Board meeting to learn if any additional FY 2021 applicants receive easement offers.

Motion #6:

To approve the staff recommended submission structure for the FY22 easement acquisition cycle.

Motion:

Klasmeier

Second:

Kille

Status:

Approved

#### VII. INFORMATION AND DISCUSSION

A. Legislative Update

Ms. Turner provided the Board with the final status of 2021 legislation which may affect MALPF.

B. FY 2021 Quarterly Inspection Report

Ms. Hoxter provided the Board with the quarterly inspection report.

## VIII. CLOSED SESSION

Mr. Allen asked for a motion for adjournment of the meeting to move into a closed session, pursuant to the applicable provisions of General Provisions Article Section 3-305 (b): (3) to consider the acquisition of real property for a public purpose and matters directly related to the acquisition; (7) to consult with counsel to obtain legal advice; and (8) to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion #7:

To adjourn the regular session at 10:22 a.m. to move into a closed session to consider the acquisition of real property for a public purpose and matters directly related to the acquisition; to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion:

Yerkes

Second: Huffman

Status:

Approved

The Closed Meeting of the Board was held from 10:33 a.m. to 11:35 a.m. on April 27, 2021 via internet and telephone conference call, pursuant to the provisions of the General Provisions Article Section 3-305 (b): Annotated Code of Maryland:

General Provisions Article Section 3-305(b):

- (3) to consider the acquisition of real property for a public purpose and matters directly related to the acquisition;
- (7) to consult with counsel to obtain legal advice; and
- (8) to consult with staff, consultants, or other individuals about pending or potential litigation.

During the Closed Meeting, the following Board members were present: William Allen, Chair, Taylor Huffman, Vice Chair, Jerome Klasmeier, representing Comptroller Peter Franchot, Joanna Kille, representing Treasurer Nancy Kopp, Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland Department of Planning, Julie Oberg, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture, Cathy Cosgrove, Cricket Goodall, Elizabeth Hill, Robin Kable, Joe Wood, and J. Bruce Yerkes.

The following Board members were absent: None

The following MALPF staff and legal representatives were also present during the closed session meeting: Michelle Cable, Diane Chasse, Chana Turner, Sarel Cousins, Kim Hoxter, Amanda Massoni, Michael Steadman, Jr., Assistant Attorney General, Maryland Department of Agriculture, Patrick Martyn, Assistant Attorney General, Maryland Department of General Services and Renee Dyson, Assistant Attorney General, Maryland Department of General Services.

# TOPICS DISCUSSED:

- A. Approval of March 23, 2021 Closed Session Minutes
- B. Status Report of Pending Legal Issues
- C. FY 2021 Round One Offers
- D. Discussion of easement violation and potential legal implications.

Respectfully Submitted:

Michelle Cable, MALPF Executive Director